

MEMORANDUM

TO: Senate Committee on Judiciary, Utilities, Commerce and Government Operations

FROM: Greg Gasper, Executive Assistant
Department of Safety and Professional Services

RE: Senate Bill 453 – DSPS Legislative Package

SB 453 is a series of statutory changes that are mostly technical in nature. Compiled primarily by DSPS staff, the proposal identifies areas in the statutes that need clarification or processes that are in need of adjustment. Following is a complete list of provisions contained in the bills:

BOARD CHANGES

1 - Eliminate the two-term limit on members of the Respiratory Care Practitioners Examining Council.

Respiratory Care Practitioners have a special expertise, and it is sometimes difficult to find someone willing to serve on the board out of this relatively small group of people. The term limit is very prohibitive in having quality members on the Council due to continuous rollover. This provision would allow for more expertise and continuity on the Council.

2 - Replace the position on the Council on Physician Assistants reserved for the vice chancellor for health sciences at UW-Madison with a position to be filled by a person who teaches physician assistants. Also, change the term from two to four years.

The Vice Chancellor for Health Sciences no longer exists, so there is no reason to have a space on the Council reserved for that person. Since the Council usually only meets once per year, the two-year term is too short.

3 - Grant rule-making authority to the Hearing and Speech Examining Board for rules governing speech-language pathologists and audiologists.

The Board currently has the ability to promulgate rules under the hearing instrument specialists subsection, but not with the speech-language pathologists and audiologists subsections. To appropriately regulate all three areas, the Board needs consistent rule-making authority.

4 - Specify when the Pharmacy Examining Board is allowed to grant a variance from a law or rule.

Currently, the Board may grant a variance only when certain conditions are met. This change helps clarify when a variance may be granted.

SAFETY AND BUILDINGS

5 - Exclude home-based businesses from the definition of public buildings and places of employment.

Places of employment and public buildings are subject to the Commercial Building Code (CBC). Under the administrative code, home-based occupations are exempted from the CBC. This statutory change will bring uniformity and consistency in the application of the CBC.

6 - Exclude farm buildings from the definition of public buildings and places of employment.

Current statutes exclude farming from the definition of a “place of employment”, but do not exclude “farm building”. Up until July 1, 2002, the Commercial Building Code had a specific exemption for farm buildings to address the discrepancy. The current edition is silent, so this change is necessary to clear up the uncertainty about the status of farm buildings. *Assembly Amendment 5 corrects the scope of the language of the bill to match the intent of the provision.*

7 - Allow product approvals for smoke detectors from quality assurance entities other than Underwriters Laboratory, Inc.

Current statutory provisions no longer reflect national standards. Underwriters Laboratory is not the only testing agency that provides quality assurances on smoke detectors.

8 - Repeal a section dealing with certification for refrigerant handling technicians and HVAC contractors needed to buy ozone-depleting refrigerant.

This provision removes a certification that is duplicative with federal regulations.

9 - Change the membership of the Uniform Dwelling Code Council from 18 to 7 members.

Under its current makeup, the UDC Council is too big and a reduction in size should be able to be achieved while maintaining the ability to have members that are a good cross-section of stakeholders. *Assembly Amendment 6 modifies the number of Council members to 11 and makes other clarifications regarding quorum and what types of individuals may be chosen to serve on the Council.*

10 - Clarify confusing language in statutes governing architects, engineers, designers and surveyors.

Throughout Chapter 443, the professions are mixed together. These changes would help to clarify the authority of each section of the board and bring the statutes into compliance with current practices.

11 - Repeal a statutory provision referencing manual flushing devices for urinals.

Current law is out-of-date. It does not reflect current technology and is inconsistent with water conservation initiatives.

12 - Delete a requirement that local units of government submit a copy of each sanitary permit, but instead allow the submission of a tally sheet at certain time intervals.

The department has produced a permit issuance summary form and has asked governmental units to complete this "tally sheet" rather than going through the time and expense of copying and mailing individual permit forms. This provision codifies this practice. *Assembly Amendment 4 corrects language in the original bill that was inconsistent with the intent of the provision.*

13 - Repeal a stroke-width dimension for letters on ethanol labels on motor-fuel dispensers.

Ethanol labels with the current required dimensions are not readily available for gasoline retailers and are actually unfeasible in some cases due to their size. Repealing the stroke-width dimension of one-eighth inch would enable use of labels that are more practical.

OCCUPATIONAL REGULATION

14 - Create alternative requirements that may be met to receive an elevator mechanic license.

An individual would be eligible for a license if they have completed a four-year training program established by the National Elevator Industry Educational Program or an equivalent program approved by the Department and has a certain level of experience. The experience requirement is 1,000 hours in each of the five years preceding the application, although there is an exception that the experience requirement could be in any five years if the applicant verifies that his/her work has been disrupted due to high unemployment in the elevator industry, military service or illness.

15 - Change standards so that hours of experience for plumbers do not have to be earned in consecutive years.

Currently, in order to take the exam for a master plumber, you must have 1,000 hours of experience per year in three consecutive years. With the current economy, many individuals are not finding enough work to be employed for three consecutive years and such a requirement is a needless barrier to exam eligibility. This provision would also help plumbers who miss work time because of a call to active military duty.

16 - Remove reference to a specific time period in which plumbers have to pay the license fee and allow the department flexibility in establishing a timeframe.

The existing statute states that a plumbing license applicant who has passed their license exam shall pay the license fee within 30 days, while Wis. Admin. Code allows 90 days for payment of the credential fee after the notice of examination results has been mailed. The revision will allow applicants more flexibility in paying the license fee.

17 - Uniformly apply to all license categories laws requiring the collection of social security and federal employer ID numbers for the purposes of collecting delinquent child support or taxes.

As new licenses have been created, language allowing for the submittal of social security and federal employer ID numbers for purposes of collecting delinquent child support and taxes has not been updated. Updating the language will apply these collection programs to all licenses. This provision affects dwelling code contractors, dwelling contractor qualifiers, manufactured home installers, welders, weld test conductors, POWTS maintainers, automatic fire sprinkler testers and commercial plumbing inspectors.

18 - Exempt wholesale distributors of oxygen from having to obtain a pharmacy license.

Current law requires every wholesale distributor of a prescription drug to be licensed as a pharmacy. Oxygen is considered a prescription drug and therefore requires a license to distribute. The requirements for licensure as a pharmacy require a pharmacist on staff and many other regulations that are not needed for companies that simply dispense oxygen.

19 - Clarify that DSPS has the authority to require professionals to report convictions.

Administrative code requires professionals to report convictions within 48 hours, but there is no statutory provision clearly authorizing the department to establish this requirement. This provision would remedy this conflict and codify current practice in statute.

20 - Allow a licensed marriage and family therapist, social worker or professional counselor to use the titles "alcohol and drug counselor" or "chemical dependency counselor".

Marriage and family therapists, social workers and professional counselors often need to address alcohol and drug abuse issues in the context of other therapy issues. Currently, they need to obtain a separate certification to use the titles "alcohol and drug counselor" or "chemical dependency counselor", but this provision brings statutes in line with real-world practice, allowing these professionals to use the titles. *This provision was removed by Assembly Amendment 1.*

21 - Require a bond or liability policy be maintained for the period of licensure for private detectives and security guards and removes some inconsistencies within the statutes.

Existing statutes state that a license for a private detective or security guard may not be issued until a bond or liability policy has been executed and filed with the department. However, it does not require that the bond or liability policy be maintained for the period of licensure, even though it is interpreted that way by administrative code. The bill also resolves a conflict between statutes and administrative code on whether a license may be issued to someone with a non-felony conviction by giving the department discretion.

22 - Clarify ambiguity within the statutes regarding timing of training requirements for podiatrists.

2005 Wisconsin Act 334 requires a two-year residency before the Podiatrists Affiliated Credentialing Board may grant a license to an applicant. Act 334 did not address how applicants who had already completed a one-year residency under previous law, but who applied for licensure after the effective date of the Act, would fit in. This provision allows for the one-year residency for this small group.

23 - Prohibit a person from voluntarily surrendering a license to avoid discipline.

Under current law, a licensee may surrender their license in an effort to avoid the issuance of a public order detailing violations and discipline. The bill eliminates this loophole.

24 - Eliminate the requirement that a licensed manufactured home seller have their license tied to their employer/dealer.

Documenting the relationship between a manufactured home salesperson and dealer in this manner is an unnecessary burden on the licensee and a drain on Department resources. The Safety and Buildings Division does not track such relationships between employees and employers for any of the more than 50 credentials it issues.

25 - Eliminate a duplicative letter of information required be sent to a credential holder if an investigation file is opened.

Current law requires the appropriate section of the Marriage and Family Therapy, Professional Counseling and Social Work Examining Board to send a letter to a credential holder if a complaint is received. This is unique to this board and duplicative of the normal investigative process used in the agency's Division of Enforcement, which involves an initial screening, obtaining a response from the subject of the complaint, conducting an investigation if appropriate and the right to a hearing if formal charges are filed. *Assembly Amendment 3 inserts language on this provision that was inadvertently omitted during drafting.*

TECHNICAL CHANGES TO STATUTORY LANGUAGE

26 - Clarify statutory inconsistencies relating to barbering and cosmetology credentials; also incorporate the definition of "aesthetics" into the definition of "barbering or cosmetology".

This provision changes the reference to a "barber and cosmetologist establishment" license (which doesn't exist) to match the correct term of "barbering or cosmetology establishment license". It provides consistency within the statutes.

27 - Substitute the term "private on-site wastewater treatment system" for "private sewage system".

"Private sewage system" is an outdated term. The change will be more consistent with other statutes, code and industry users.

28 - Consolidate two sections relating to sanitary permits into one section to eliminate confusion.

Sanitary Permit requirements are currently located in two sections of Chapter 145 and fee amounts are not current. This can cause confusion and result in someone unintentionally not following sanitary permit processing procedures. The provision eliminates statutorily-set fees and maintains DSPS authority to set the fees by rule.

29 - Remove language referring to "certificate of good standing" under the Funeral Directors Examining Board.

The certificate of good standing is unnecessary, no longer offered by the Department and has not been for the past 15 years. The language in the current statute causes confusion and should be removed to reflect current practices.

30 - Clarify that DSPS has the authority to impose discipline in cases of unlicensed practice.

In addition to DSPS, some boards have the ability to discipline in cases of unlicensed practice. This provision clarifies that DSPS' authority is separate from and in addition to these boards.

31 - Change certain references in the statutes from ounces to grams.

Current statutes use references to both grams and ounces. The bill replaces citations of ounces with the gram equivalent for the purpose of consistency and clarity.

32 - Remove a section of the statutes created to correct a past issue with fire dues distribution.

The existing language was used to correct an issue with fire dues distribution from 2000-2004 and serves no purpose. It could be removed without consequence.

33 - Correct language errors within the cemetery statutes.

Increase clarity and eliminate inconsistencies in statutes governing Wisconsin cemeteries. *This provision was modified by Assembly Amendment 2 to simply delete the incorrect, duplicative and outdated statutes.*

Summary of Assembly Amendments to AB 547

Assembly Amendment 1: AA 1 deletes the provision allowing a licensed marriage and family therapist, social worker or professional counselor to use the titles "alcohol and drug counselor" or "chemical dependency counselor".

Assembly Amendment 2: AA 2 deletes incorrect, duplicative and outdated cemetery-related statutes instead of making modifications as originally proposed in the bill.

Assembly Amendment 3: AA 3 is a technical amendment that inserts language inadvertently omitted during drafting regarding the elimination of a duplicative letter of information required to be sent to a credential holder if an investigation file is opened.

Assembly Amendment 4: AA 4 is a technical amendment that corrects language in the original bill that was inconsistent with the intent of the provision. The original language did not, as intended, accomplish the deletion of the requirement that local units of government submit a copy of each sanitary permit to DSPS.

Assembly Amendment 5: AA 5 is a technical amendment that corrects the language of the bill to match the intent of the provision seeking to exclude farm buildings from the definition of public buildings and places of employment.

Assembly Amendment 6: AA 6 contains a series of changes to the original bill language seeking to modify the size and composition of the Uniform Dwelling Code Council as follows:

- Allows for 11 Council members (instead of the original 7);
- Clarifies that DSPS staff is not to be considered a member of the Council;
- Adds "fire prevention professional" to the list of possible members of the Council;
- Clarifies that retailers or installers of manufactured or modular homes may be chosen to serve on the Council;
- Clarifies that designers eligible for Council service must be registered under Chapter 443;
- Sets the quorum requirement at 7 members.

Assembly Amendment 7: Makes modifications that move dieticians from certification to licensure. DSPS is recommending that this amendment not be moved forward by the Senate at this time.

Assembly Amendment 8: Establishes the statutory definition of "Funeral Director in Charge of the Funeral Establishment". The concept exists in statute, but it is not currently defined.

Assembly Amendment 9: Eliminates references to one process and three entities that are no longer utilized by DSPS for inspections. Two of the entities no longer exist.

